United Nations CCPR/C/DZA/CO/4

International Covenant on Civil and Political Rights

Distr.: General
17 August 2018
English
Original: French

Human Rights Committee

Concluding observations on the fourth periodic report of Algeria*

1. The Human Rights Committee considered the fourth periodic report of Algeria (CCPR/C/DZA/4) at its 3494th and 3495th meetings (see CCPR/C/SR.3494 and 3495), held on 4 and 5 July 2018. It adopted the following concluding observations at its 3517th meeting, held on 20 July 2018.

A. Introduction

2. The Committee welcomes the submission, albeit six years late, of the fourth report of Algeria and the information that it contains (CCPR/C/DZA/4). It appreciates the opportunity afforded to it to engage in dialogue with the State party delegation on the measures taken to give effect to the provisions of the Covenant. It takes note of the additional information submitted by the State party in writing in response to the list of issues and thanks the State party for the oral replies given by its delegation.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative and institutional measures:

(a) Act No. 08-09 of 25 February 2008 repealing civil imprisonment for non-performance of a contractual obligation;

(b) Ordinance No. 11-01 of 23 February 2011 lifting the state of emergency;

(c) Organic laws No. 12-03 establishing the procedures for increasing women's opportunities for access to representation in elected assemblies, which lays down the principle of quotas, of between 20 to 50 per cent, for the number of seats to be filled by women in elected assemblies, and No. 12-04 on political parties;

(d) Ordinance No. 15-02 of 23 July 2015 incorporating a number of significant amendments into the Code of Criminal Procedure;

(e) Act No. 15-12 of 15 July 2015 on child protection;

(f) Constitution, as amended in 2016, which contains provisions that strengthen some of the rights enshrined in the Covenant.

4. The Committee notes with satisfaction the State party's accession, on 6 May 2009, to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

* Adopted by the Committee at its 123rd session (2–27 July 2018).

GE.18-13632 (E) 190918 200918

1813632

Please recycle

C. Principal subjects of concern and recommendations

Applicability of the Covenant in the domestic legal order

5. The Committee takes note that, pursuant to article 150 of the Constitution, treaties take precedence over laws. However, it is concerned that, in practice, the Covenant does not always take precedence over national laws. While taking note of the efforts made by the State party to disseminate the Covenant, the Committee reiterates its concern and finds it regrettable that few examples were provided of cases in which the Covenant has been invoked before or applied by the courts and that these cases, most of which were from the Court of Constantine, were geographically concentrated (art. 2).

6. **The State party should take measures to ensure the precedence of the Covenant over national laws and thus give full effect to the rights enshrined in the Covenant. It should also take measures to raise awareness of the Covenant and the Optional Protocol thereto among judges, prosecutors and lawyers in order to ensure that their provisions are more fully considered and applied by national courts.**

Views adopted under the Optional Protocol

7. The Committee expresses concern at the principled position taken by the State party with regard to the Committee's Views adopted under the Optional Protocol. Despite repeated requests, the State party continues to refer systematically to a general document (the "aide-memoire") without responding to the claims made by authors concerning events related to the period 1993–1998 and, in some instances, outside that period. The Committee thanks the State party for the additional information provided in writing to follow up on some of the Views, but it very much looks forward to receiving more specific information on each case, in particular on investigations and criminal proceedings launched in relation to the violations recognized by the Committee. The Committee finds it regrettable that such a large number of its Views have not been implemented and are still the subject of follow-up procedures (see the follow-up reports contained in documents CCPR/C/122, CCPR/C/115/3, CCPR/C/108/3, CCPR/C/101/3 and CCPR/C/100/3). The Committee takes note of the State party's argument that, article 45 of Ordinance No. 06-01 of 27 February 2006 notwithstanding, authors of communications are not dispensed from exhausting domestic remedies; the Committee recalls, however, its obligation to determine in each case whether the conditions under article 5 (2) (b) of the Optional Protocol have been met. The Committee expresses great concern at the allegations of police and judicial harassment and the reprisals taken against complainants and their families (art. 2).

8. **Recalling its general comment No. 33 (2008) on the obligations of States parties under the Optional Protocol, the Committee calls on the State party, as a matter of urgency, to:**

(a) **Cooperate with the Committee in good faith under the individual communications procedure by ceasing to refer to the aide-memoire and by responding individually and with specifics to the claims made by authors of communications;**

(b) **Take all necessary action to put in place appropriate procedures that give full effect to the Committee's Views and thereby ensure access to an effective remedy when there is a violation of the Covenant, as set forth in article 2 (3) of the Covenant. Recalling the Guidelines against Intimidation or Reprisals (San José Guidelines), the Committee calls on the State party, as a matter of urgency, to (a) guarantee that individuals who cooperate with the Committee are not subjected to any form of intimidation or reprisal; and (b) drop the charges against, release and compensate all individuals who are being prosecuted, either directly or by way of other charges, for having cooperated with the Committee.**

Delegation of authority in the camps at Tindouf

9. The Committee takes note of the explanation provided by the State party delegation that internal organization within the camps at Tindouf is the responsibility of the Saharan refugees. It is concerned, however, by the de facto devolution of authority to the Frente

Polisario, especially jurisdictional authority, as such a situation is inconsistent with the State party's obligation to respect and guarantee all Covenant rights for all persons within its territory. It is also concerned by the reports that, as a result of the foregoing, victims of violations of Covenant provisions in the camps at Tindouf do not have access to an effective remedy in the State party's courts (art. 2).

10. **As an obligation emanating from article 2 (1) of the Covenant, the State party should ensure the liberty and security of persons as well as access to effective remedies for all persons within its territory, including those in the camps at Tindouf, who claim to be the victim of a violation of the Covenant's provisions.**

Charter for Peace and National Reconciliation, impunity and effective remedies

11. The Committee notes that the people of Algeria endured difficult circumstances during the conflict in the 1990s and that a strategy for peace and reconciliation was adopted in the wake of those events. It reiterates, however, its deep concern — already expressed several times in the past, in particular in its Views — with regard to article 45 of Ordinance No. 06-01 of 27 February 2006 on the implementation of the Charter for Peace and National Reconciliation, as that article precludes any kind of effective remedy for victims of violations of the Covenant's provisions committed by law enforcement personnel, including the armed forces and security services, and it fosters impunity. The Committee therefore voices again its concern at the numerous and serious violations that have been reported and have not yet been prosecuted or punished (art. 2).

12. **The State party should take all steps possible to (a) ensure that article 45 of Ordinance No. 06-01 does not undermine the right to an effective remedy, pursuant to article 2 of the Covenant, and amend that article to clearly stipulate that it does not apply to serious human rights violations such as torture, murder, enforced disappearance or abduction; (b) guarantee that all allegations of serious human rights violations that are brought to its attention, such as massacres, torture, rape or abductions, and that were committed by law enforcement personnel or members of armed groups are investigated, prosecuted and punished; and (c) ensure that no one who has been found to be responsible for a serious human rights violation is the subject of a pardon, commutation or remission of sentence, or termination of proceedings.**

13. The Committee takes note of the delegation's assertion that convictions under article 46 of Ordinance No. 06-01 are extremely rare or even non-existent. It however reiterates its concern that article 46 prescribes a penalty of imprisonment and a fine for any person who attacks the institutions of the State party, impugns the honour of its officials or tarnishes its international reputation. The Committee is concerned by reports of the use or threat of use of the article, and it draws attention to the chilling effect and the climate of self-censorship created by such a provision (arts. 2 and 19).

14. **The State party should repeal article 46 of Ordinance No. 06-01 inasmuch as it impedes the freedom of expression and infringes the right of all to have access, both domestically and at the international level, to an effective remedy against human rights violations. It should also ensure that no prosecutions are undertaken or threats of prosecution made on the basis of article 46 of Ordinance No. 06-01.**

National Human Rights Council

15. The Committee takes note of the assertion that the National Human Rights Council, which has been operational since 9 March 2017, is now provided for in the Constitution and is independent. It takes note of the B status awarded to the Council by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, but is nevertheless concerned by allegations that its members are not independent (art. 2).

16. **The State party should take all measures to ensure that the National Human Rights Council complies with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). It should in particular ensure that the process for selecting and electing members of the Council is transparent and fully independent and grant the Council sufficient**

resources and capacity and full autonomy and freedom so that it can carry out its mandate effectively.

Counter-terrorism measures

17. While the Committee acknowledges the exigencies involved in combating terrorism, it reiterates its concern with regard to article 87 bis of the Criminal Code as that article defines the crime of terrorism in overly broad and vague terms that would allow for the prosecution of actions that might constitute exercise of the freedom of expression or peaceful assembly. It is concerned as well by claims of inappropriate use of counter-terrorism measures against human rights defenders and journalists. The Committee is similarly concerned that article 51 bis of the Code of Criminal Procedure allows for the initial police custody period of 48 hours to be extended up to five times and that persons held in such custody claim not to have had access to counsel until halfway through that period (arts. 2, 9 and 19).

18. **The State party should amend article 87 bis of the Criminal Code so that it clearly defines what constitutes an act of terrorism, and it should ensure that counter-terrorism measures are not used to restrict rights that are enshrined in the Covenant, in particular with regard to human rights defenders and journalists. It should also limit the period of initial police custody to a maximum of 48 hours, including in cases of suspected terrorism, and allow access to counsel as from the time the person is detained.**

Anti-discrimination measures

19. The Committee takes note of the delegation's explanations regarding the constitutional guarantee of the prohibition of discrimination and the non-communitarian nature of Algerian society. While taking note of articles 295 bis 1 and 295 bis 2 of the Criminal Code, the Committee remains concerned that the definition of discrimination does not include such grounds of discrimination as language, religious belief, sexual orientation and gender identity, and finds it regrettable that current legislation does not offer victims effective civil and administrative remedies. The Committee is also concerned by allegations of acts of discrimination, stigmatization and hate speech against migrants, asylum seekers and Amazigh communities. Moreover, the Committee reiterates its concern with regard to acts of discrimination and stigmatization against lesbian, gay, bisexual and transgender persons and finds it regrettable that sexual activity in private between consenting adults of the same sex remains an offence under article 338 of the Criminal Code (arts. 2, 19, 20 and 26).

20. **The State party should:**

(a) **Adopt comprehensive civil and administrative legislation on discrimination that includes a definition of direct and indirect discrimination, including in the private sphere, and contains a non-exhaustive list of grounds of discrimination, including, inter alia, language, religious belief, sexual orientation and gender identity;**

(b) **Undertake to combat hate speech by public or private persons, including on social media and the Internet, in accordance with articles 19 and 20 of the Covenant and general comment No. 34 (2011) on freedoms of opinion and expression;**

(c) **Repeal article 338 of the Criminal Code in order to decriminalize sexual relations between consenting adults of the same sex;**

(d) **Release all persons detained on the basis of article 338 of the Criminal Code.**

Discrimination and equality between men and women

21. The Committee welcomes the measures taken by the State party to increase the participation of women in political and public life. However, it is concerned that, in practice and in spite of these efforts, the representation of women is insufficient for the purposes of achieving parity and that the proportion of women in the workforce remains unsatisfactory.

The Committee welcomes the fact that the Constitution establishes the principle of equality between men and women, but nevertheless expresses concern regarding the fact that many provisions that are discriminatory towards women remain in force in the area of family law (arts. 2, 3, 25 and 26).

22. **The State party should:**

(a) **Continue its efforts to achieve the equal representation of women in political and public life and in the workforce;**

(b) **Repeal or amend the provisions of family law that are discriminatory towards women in order to give full effect to the principle of equality enshrined in the Constitution and the Covenant.**

Violence against women

23. The Committee takes note of the measures introduced into the Criminal Code to cover certain forms of domestic violence, but remains concerned by the continued prevalence and acceptance in society of violence against women. The Committee is concerned by the low rates of reporting and of prosecution of perpetrators of violence, owing in particular to the risk of stigmatization and insufficient shelters and protection measures, and by the fact that victims are not aware of their rights. While noting the delegation's explanations regarding forgiveness clauses, which were said to apply only in the context of misdemeanours, the Committee remains concerned by allegations that such clauses have been invoked in certain courts, including in the context of crimes, and by the social pressure on victims, who are encouraged to grant their pardon rather than to bring a complaint. The Committee also expresses concern regarding article 326 of the Criminal Code, pursuant to which any person who kidnaps a girl aged under 19 years without the use or threat of force escapes prosecution if he marries the victim and the girl's family does not lodge a complaint. The Committee is also concerned that, although rape is classified as an offence under the Criminal Code, it is not defined, which leaves wide discretion to courts to accept or reject this classification. Lastly, the Committee expresses regret regarding the lack of information on measures to implement Decree No. 14-26 of 1 February 2014 on compensation for women victims of rapes committed by a terrorist or terrorist group in the 1990s (Covenant, arts. 3, 6, 7 and 17).

24. **The State party should continue and step up its efforts to prevent and combat acts of violence against women, including by strengthening the institutions responsible for applying the existing legislative framework, providing them with the necessary resources, strengthening awareness-raising activities across its territory and offering training activities for State officials, in particular judges, prosecutors, police officers and medical and paramedical personnel, so that they can respond effectively to all forms of domestic violence. It should also: (a) abolish forgiveness clauses for all forms of domestic violence, including those classified as misdemeanours, as well as article 326 of the Criminal Code; (b) expand and strengthen shelter services and care arrangements for victims; (c) facilitate the submission of complaints of violence and ensure that all cases are thoroughly investigated and prosecuted; (d) revise the Criminal Code in order to introduce a comprehensive definition of rape; and (e) ensure that all victims of rapes committed in the 1990s receive the compensation provided for in Decree No. 14-26 of 1 February 2014.**

Voluntary termination of pregnancy

25. The Committee is concerned at the number of unsafe abortions that are reportedly performed each year as a result, mainly, of the extremely limited conditions in which abortion is permitted under the Criminal Code, namely, only when the mother's life is at risk (art. 308). The Committee is also concerned at the severity of the punishment for women who have had an abortion in situations other than those specifically authorized by the law (art. 309). A further concern in this regard is the significant social gap that exists with regard to abortion, inasmuch as poor women have access only to abortions that are unsafe and performed in conditions that jeopardize not just their health but also their lives (arts. 3, 6, 7, 17, 24 and 26).

26. **The State party should, until such time as abortion is decriminalized, amend its legislation with a view to ensuring safe, legal and effective access to abortion, including when the life and health of the woman or girl are at risk, when allowing the pregnancy to go to term would result in significant pain or suffering for the woman or girl and in particular when the pregnancy is the result of rape or incest or is not viable. It should furthermore ensure that women and girls who have abortions, as well as the physicians assisting them, are not subjected to criminal sanctions inasmuch as such sanctions force women and girls to have unsafe abortions. In addition, the State party should raise awareness through policies aimed at countering the stigmatization faced by women and girls who wish to have an abortion, and it should ensure that they have access to contraception and to appropriate and affordable reproductive health-care services.**

Death penalty

27. The Committee takes note of the de facto moratorium observed by the State party since 1993. It is concerned, however, about the number of crimes, including some that are not among those classified as very serious crimes, which involve murders, for which the death penalty may still be applied, and it deplores the inclusion in 2013 of article 293 bis in the Criminal Code, whereby an additional crime is now punishable with the death penalty. While noting the explanation that the death penalty is ordered in cases of a conviction in absentia, the Committee is concerned at the high number of death sentences that continue to be handed down each year and the fact that those sentences are not automatically commuted (arts. 6 and 7).

28. **The State party should consider embarking on a political and legislative process aimed at abolishment of the death penalty and launching measures and campaigns to mobilize public opinion in support of abolishment. It should furthermore (a) refrain from making any further crimes subject to the death penalty; (b) amend the legislation on sentencing persons to death in absentia and commute the sentences of prisoners currently on death row; and (c) take all necessary measures to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.**

Enforced disappearance

29. The Committee is concerned by the extent of the phenomenon of enforced disappearances in the State party in connection with the conflict of the 1990s. It deplores in particular the fact that there is no effective remedy available for disappeared persons or their families and that no action has been taken to uncover the truth about disappeared persons, to find them and, if they are deceased, to return their remains to their families. The Committee reiterates its concern regarding article 3 of Presidential Decree No. 06-93 of 28 February 2006 on compensation for victims of the national tragedy, which made the granting of compensation to a disappeared person's family subject to an acknowledgement that the disappeared person was dead. The Committee finds it regrettable that the State party provided little or no information on (a) action taken to identify the bodies found in the numerous unidentified graves; (b) the authorities' failure to respond to reports of discoveries of mass graves; and (c) the work of the Ad Hoc National Commission on Disappeared Persons. The Committee is concerned as well by the reports of recent cases of enforced disappearance and finds it regrettable that no information was provided on action taken to ensure that no further cases would occur (arts. 2, 6, 7, 9 and 16).

30. **The State party should take all necessary action to (a) ensure that disappeared persons and their families have access to an effective remedy, including for those families who have declared — for purposes of being able to receive compensation — that their disappeared family member was dead; (b) ensure that thorough and independent investigations are launched into all allegations of enforced disappearance; (c) guarantee access to the truth for families of victims, such as by arranging for the exhumation of unmarked graves and mass graves and by having remains identified through scientific means, such as DNA testing; (d) guarantee the right to comprehensive reparation for all victims; (e) put in place guarantees to prevent**

enforced disappearance from reoccurring; and (f) implement the relevant Views adopted by the Committee under the Optional Protocol, provide any information that may be useful in resolving the cases pending before the Working Group on Enforced or Involuntary Disappearances and organize as promptly as possible the country visit referred to in the invitation extended in December 2013 by the State party to the Working Group. The State party should also take all necessary action to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, which it signed in 2007.

Prohibition of torture and cruel, inhuman or degrading treatment

31. The Committee takes note of the delegation's explanation that, inasmuch as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment takes precedence over domestic legislation, the definition contained in the Convention is directly applicable by the Algerian courts. The Committee is concerned, however, that the definition provided in article 263 bis of the Criminal Code is incomplete and it is inconsistent with the provisions of the Covenant and other international standards. The Committee in addition finds it regrettable that the use of confessions obtained under torture is not expressly prohibited by law and is left to the discretion of the judges (arts. 7 and 14).

32. **The State party should update its anti-torture legislation in order to bring the definition of the crime of torture fully into line with the provisions of the Covenant and accepted international standards and to ensure that, in all jurisdictions, forced confessions are prohibited and any evidence obtained through torture is inadmissible.**

33. Taking note of the delegation's assertion that the use of torture by law enforcement personnel would henceforth be a residual phenomenon, the Committee is all the same concerned by claims that torture and ill-treatment continue to be used in counter-terrorism operations, in particular by personnel of the Department of Surveillance and Security. Those officers, who enjoy the prerogatives of the criminal investigation police, do not, in practice, come under the supervision of the State Prosecutor. The Committee is also concerned that so few of the officers who committed acts of torture and ill-treatment have been prosecuted and punished and that article 45 of Ordinance No. 06-01 of 27 February 2006, although it applies to a period in the past, in fact fosters to this day a climate of impunity for law enforcement personnel (art. 7).

34. **The State party should:**

(a) **Continue its efforts to completely eliminate torture and cruel, inhuman or degrading treatment;**

(b) **Ensure that suspected cases of torture and ill-treatment committed by law enforcement personnel, including personnel of the Department of Surveillance and Security, are thoroughly investigated, that perpetrators are prosecuted and, if found guilty, sentenced to appropriate punishment and that victims receive compensation and, in particular, are offered rehabilitation assistance;**

(c) **Establish a national mechanism for the prevention of torture.**

Arbitrary detention, policy custody and pretrial detention

35. While noting the delegation's assertion that there are no secret detention sites in the territory of the State party, the Committee is concerned by reports documenting the existence of such centres. It is also concerned by cases of arbitrary detention that seem not to have been investigated or prosecuted. The Committee finds it regrettable that no information was provided on the situation of Djameleddine Laskri, who has been in detention for 24 years, and of Ali Attar, who has been in custody since February 2015 without an arrest warrant ever having been issued. The Committee is concerned as well by (a) reports that article 51 bis of the Criminal Code is being invoked systematically, even for prisoners being held on charges of crimes other than terrorism; (b) the fact that prisoners may only meet with their counsel in the presence of a criminal investigation police officer;

and (c) the high percentage of prisoners who are being held in pretrial detention (arts. 7 and 9).

36. **The State party should align its legislation and practices with article 9 of the Covenant, bearing in mind the Committee's general comment No. 35 (2014) on liberty and security of the person. In particular, it should:**

(a) **Ensure that there is effective monitoring — by judges — of all places of detention;**

(b) **Ensure that anyone who was detained arbitrarily is released without conditions, and launch a thorough and independent investigation into any allegation of arbitrary arrest;**

(c) **Make sure that the period of initial police custody never exceeds 48 hours in any case;**

(d) **Guarantee that all persons taken into custody enjoy unrestricted and unsupervised access to counsel;**

(e) **Devise non-custodial measures to be used as an alternative to pretrial detention.**

Refugees, asylum seekers and migrants

37. The Committee takes note of the delegation's comments on the State party's tradition of hospitality and welcomes the information that asylum legislation is being drafted. It is concerned, however, that the current legal framework that applies to asylum seekers and refugees — and is formed solely by decree No. 63-274 of 25 July 1963 laying down procedures for the application of the Geneva Convention relating to the Status of Refugees of 28 July 1951 — does not fulfil the State party's obligations under the Covenant. Of particular concern are the reports of mass arrests of migrants, whose number includes asylum seekers and holders of refugee cards issued by the Office of the United Nations High Commissioner for Refugees, and reports of administrative detentions and mass expulsions, all of the foregoing in the absence of any established procedures. The Committee expresses special concern about the 13,000 persons who were reportedly recently returned en masse to the Niger and left in the desert, that number including pregnant women and children (arts. 7, 9, 10 and 13).

38. **The State party should take the necessary steps to promptly adopt asylum legislation that is consistent with the Covenant and international standards and provides protection to asylum seekers and refugees, in particular with regard to procedures for entering the country, requesting asylum and lodging appeals. It should also (a) refrain from conducting mass arrests of migrants and asylum seekers; (b) refrain from subjecting migrants and asylum seekers to arbitrary detention and ensure that they have access to counsel and to information about their rights; (c) refrain from conducting, under any circumstances whatsoever, collective expulsions of migrants and asylum seekers, a fortiori in inhumane and degrading conditions; and (d) arrange for training programmes on the Covenant, international asylum and refugee standards and human rights standards to be organized for immigration and border control officials.**

Independence of the judiciary and reform of the justice system

39. The Committee welcomes the State party's efforts in the area of reform and modernization of the justice system. It notes with concern, however, that the independence of the judiciary is not sufficiently guaranteed and that the executive plays a significant role in the organization of the judicial branch. The Committee is concerned that, pursuant to Organic Act No. *04-11* of 6 *September 2004 on the* organization of the judiciary, (a) senior judges can only be appointed by presidential decree; (b) judges are appointed by presidential decree on the recommendation of the Minister of Justice after deliberation in the High Council of the Judiciary; (c) judges become tenured only after serving for 10 years; (d) the judges serving in the prosecution service are entirely under the authority of the Minister of Justice, who may reassign them; and (e) dismissals and compulsory retirements

are effected by presidential decree and all other disciplinary measures are ordered by the Minister of Justice. It is equally concerned by allegations of outside interference in decisions of judges and public prosecutors and by reports of collective and mass compulsory retirements of judges and public prosecutors (art. 14).

40. **As part of the reform of the justice system it has undertaken, the State party should amend Act No. 04-11 of 6 September 2014 with a view to (a) ensuring that judges and public prosecutors are appointed through an independent process that is based on objective, transparent criteria for assessing candidates' suitability in terms of the required skills, competence and reputation; (b) strengthening the independence and the powers of the High Council of the Judiciary, in particular with regard to assessing judges' qualifications, disciplinary measures, dismissals and compulsory retirements; and (c) guaranteeing the tenure of judges and public prosecutors, the independence of judges and the impartiality of public prosecutors and protecting the workings of the judiciary from any outside interference.**

Freedom of religion

41. The Committee reiterates its concern regarding article 11 of Ordinance No. 06-03 of 28 February 2006 on the conditions and rules governing non-Muslim worship, which criminalizes certain activities that could cause individuals to renounce the Muslim faith. While taking note of the delegation's explanations regarding the destruction of certain mosques and arrests of persons in possession of bibles, the Committee remains concerned by reports of closures of churches and evangelical institutions and various restrictions on worship by Ahmadi persons. It also expresses concern regarding allegations of attacks, acts of intimidation and arrests targeting persons who do not fast during Ramadan (arts. 18 and 19).

42. **The State party should:**

(a) **Abolish all legislative provisions that violate freedom of thought, conscience and religion;**

(b) **Refrain from interfering in worship by persons who do not follow the official religion, for example by destroying and closing schools or refusing to register religious movements if the refusal is not based on requirements of necessity and proportionality;**

(c) **Ensure that all persons, including those who are atheists or have renounced the Muslim faith, are able to fully exercise their freedom of thought, conscience and religion.**

Freedom of expression

43. The Committee expresses its concern at Organic Act No. 12-05 of 12 January 2012 (the Information Act), as that text states that activities relating to information-sharing need to respect a series of very diverse standards of reference, such as national identity, the cultural values of society, national sovereignty and national unity (art. 2). Aside from the numerous articles that impose excessive constraints on the content of sharable information (arts. 11, 22, 23, 29, 84 and 121), the Committee is concerned that the standards of reference are so diverse, broad and vague as to have a disproportionate impact on the implementation of article 19 of the Covenant. It reiterates as well its concern about articles 96, 144, 144 bis, 144 bis 2, 146, 296 and 298 of the Criminal Code, pursuant to which activities linked to exercise of the freedom of expression, such as defamation or insults against civil servants or State institutions, continue to be crimes and are subject to fines. The Committee expresses its concern at claims that these criminal provisions are being used to impede the work of journalists and human rights defenders, including Hassan Bouras, Mohamed Tamalt and Merzoug Touati (arts. 6 and 19 of the Covenant).

44. **The State party should:**

(a) **Align the relevant provisions of Organic Act No. 12-05 of 12 January 2012 and of the Criminal Code with article 19 of the Covenant;**

(b) **Release from prison all persons whose conviction had stemmed from their having exercised their right to freedom of expression under article 19 of the Covenant and grant those persons full compensation for the harm suffered.**

Right to peaceful assembly

45. The Committee is deeply concerned by Act No. 91-19 of 2 December 1991 amending and supplementing Act No. 89-28 of 31 December 1989 on public meetings and demonstrations, inasmuch as the provisions are extremely restrictive and stipulate, for the organization of any demonstration, (a) prior authorization by and at the discretion of the executive on the basis of vague criteria, such as national principles, the public order or public decency; (b) an excessively long advance notice of eight days; and (c) criminal sanctions for any public assembly not meeting these conditions, such events being classified in the Criminal Code as unarmed gatherings. It is equally concerned by an unpublished decree of 18 June 2001, which prohibits demonstrations in the capital, and by reports that the decree is being applied generally throughout the country. The Committee is similarly concerned by reports of frequent cases of (a) public and private gatherings being violently dispersed; (b) demonstrators being mistreated, imprisoned and, on occasion, prosecuted; and (c) prosecution or harassment of persons who manage private facilities that are used for private meetings or reserved exclusively for members of legally formed associations, such as hotels (arts. 7, 9 and 21).

46. **The State party should:**

(a) **Amend Act No. 91-19 of 2 December 1991 to remove all restrictions on peaceful demonstrations that are not absolutely necessary or proportionate in terms of the provisions of article 21 of the Covenant, and institute a simplified advance authorization arrangement for public demonstrations;**

(b) **Repeal the unpublished decree of 18 June 2001;**

(c) **Guarantee that demonstrators and meeting organizers are not prosecuted for exercising their right of assembly;**

(d) **Take effective measures to ensure that law enforcement personnel do not use excessive force during crowd dispersal operations.**

Freedom of association and the right to organize

47. The Committee expresses concern at Act No. 12-06 of 12 January 2012 (the Associations Act), inasmuch as its provisions are restrictive and subject an association's stated objective to vague, imprecise general criteria, such as the public interest and respect for national values and principles. It is also concerned that, under that legislation, (a) the founding of an association is subject to an authorization procedure; (b) cooperation with foreign organizations and the receipt of funds from abroad are subject to prior clearance by the authorities; and (c) associations may be dissolved by simple administrative decision for reasons of "interference with the domestic affairs of the country or affront to national sovereignty". In addition, it is concerned by numerous credible reports of the Government having rejected the by-laws of existing organizations that had been updated to align them with the new legislation, as that practice limits the freedoms of associations and exposes their members to hefty penalties for unauthorized activity (art. 22).

48. **The State party should:**

(a) **Amend Act No. 12-06 of 12 January 2012 on associations to make it fully consistent with the provisions of article 22 of the Covenant;**

(b) **Ensure that the updated by-laws of existing associations are legally recognized, and refrain from using the provisions of Act No. 12-06 as a means to suspend de facto the activities of specific associations.**

49. The Committee takes note that trade unions are registered through a declaration-based system. It is however concerned that, in practice, the Government has refused to register some independent unions by delaying or not authorizing the issuance of the documentation required for trade union activity. It is also concerned by reports of harsh

police repression of strikes or demonstrations by unions, judicial harassment, intimidation and threats, including suspensions and dismissals, in particular within the civil service (arts. 19 and 21).

50. **The State party should:**

(a) **Guarantee the exercise of trade union freedoms in accordance with article 22 of the Covenant and guarantee the establishment of new and independent trade unions;**

(b) **Refrain from acts of repression, harassment or intimidation against trade unionists.**

D. Dissemination and follow-up

51. The State party should widely disseminate the Covenant, its fourth periodic report, its written replies to the Committee's list of issues and the present concluding observations in order to raise awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society, non-governmental organizations (NGOs) operating in the country and the general public. The State party should ensure that the report, the written replies and the present concluding observations are translated into its official languages.

52. In accordance with rule 71 (5) of the Committee's rules of procedure, the State party is requested to provide, within two years of the adoption of the present concluding observations, which is to say by 27 July 2020, information on its implementation of the recommendations made by the Committee in paragraphs 30 (enforced disappearance), 38 (refugees, asylum seekers and migrants) and 46 (right to peaceful assembly) above.

53. The Committee requests the State party to submit its next periodic report by 27 July 2022 and to include in that report specific, up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, when preparing its next periodic report, to consult widely with civil society and NGOs operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The Committee also invites the State party to accept, by 27 July 2019, its simplified reporting procedure, whereby the Committee transmits a list of issues to the State party prior to the submission of its periodic report. The State party's replies to this list would then constitute its next periodic report due under article 40 of the Covenant.